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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/622,399

07/18/2003

Thomas Haermeyer

3241-57-1

4682

8933

7590

12/07/2006

DUANE MORRIS, LLP

IP DEPARTMENT

30 SOUTH 17TH STREET

PHILADELPHIA, PA 19103-4196

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,399

Applicant(s)

HAERMAYER ET AL.

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron-Price (5,340,595) in view of Baxter et al (5,683,732) or vice versa, i.e. Baxter et al in view of Cameron-Price, both further in view of Jamieson et al (EP 594221), Malm (3,327,391), Robertis (3,107,028), Schechter (3,079,037), Kay et al (4,315,382), Wittwer (3,590,989), Swett et al (3,526,335), Thanhauser et al (3,388,827), and Martin (2,895,636).

In regard to claim 16, Cameron-Price discloses a beverage container for a gas pressurized beverage comprising a bottom with an involution and a projection forming a neck-like contour with two annular sections of different diameter (e.g., fig.1) and a gas container (#8) attached over the annular section to an inside bottom of the beverage container, wherein the gas container has a bottom part made of elastic material (it snaps to the neck-like contour of the bottom of the beverage container for affixing the gas container in the beverage container) and wherein the gas container bottom part and the upper part (together with the bottom of the beverage container) form an essentially closed hollow body, but for one or more openings of small diameter that are capable of permitting limited passage of gas under sufficient pressure differential between the gas container and the beverage container. Claim 1 only differs from Cameron-Price in that the gas container bottom and upper part form an essentially closed hollow body,

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whereas Cameron-Price discloses the gas container employs a portion of the bottom of the beverage container to form an essentially closed hollow body. As evidenced by Baxter et al, it was well established in the art to provide a gas container that forms a closed hollow body with the beverage container or wherein the gas container forms a closed hollow body itself. Thus, Baxter et al teaches the equivalency of both conventional expedients. Baxter et al also teaches the gas container can be a single piece or two snap-fit pieces, that the gas container in its closed hollow configuration can be secured to the bottom of the beverage container, and that the one or more openings can be on top or side or even bottom surfaces of the gas container. To modify Cameron-Price so that the container is essentially a closed hollow body and provide the lower portion of the body with conventional snap-fit structure to secure the container to the bottom of the beverage container, i.e., for its art recognized and applicants intended function would therefore have been obvious. Baxter et al discloses a beverage container and a gas container, wherein the gas container is essentially a closed hollow body with openings of small diameter that are capable of permitting limited gas under sufficient pressure differential between the gas and the beverage container and wherein the bottom of the gas container is secured to the bottom of the beverage container. Claim 1 differs from Baxter et al in the particular means to secure the gas container to the beverage container. That is, claim 1 recites snap-fit structure between the gas container and beverage container. It is, of course, notoriously conventional to provide any two structures with snap-fit structure so that one or the other structure flexes and snaps over the dimension of the other structure. Cameron-Price, for example, discloses

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a gas enclosure provide with flexing portions which flex over an enlarged portion of the bottom of the beverage container and then is retained in a narrower portion of the bottom of the container. To modify Baxter and substitute one conventional securement means for another conventional securement means, for its art recognized and applicants intended function, would therefore have been obvious. Jamieson et al can be relied on as further evidence of the conventionality of various snap-fit shapes, which incorporate reduced thickness portions and enables one to secure two structures together. Malm is also relied on as further evidence of the conventionality of snap-fit securement systems and the various designs/shapes that are possible to provide such securement. Robertis is also relied on as further evidence of snap-fit as a securement expedient and that the bottom of a container can be designed to be snap fit to an external structure and wherein the snap-fit shape is a ball and socket arrangement. Schechter, Kay et al, Wittwer, Swett et al, Thanhauser et al, and Martin are relied on as further evidence of the conventionality of employing various snap-fit structures and shapes to secure two structures together, that it was conventional to provide containers, including containers defining hollow configurations, with snap-fit structure at their lower ends for securement to other structures, and that such snap-fit shapes or structure included circumferentially oriented structure and one or more discrete projections or protuberances. All of remaining claims 17-39 have been carefully reviewed and are found to be rejected for the reasons given above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-

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272-1410. The examiner can normally be reached on Monday-Friday 7:00 A.M.-2:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steve Weinstein
STEVE WEINSTEIN
PRIMARY EXAMINER 1761

12/5/06